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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,337	02/13/2001	Natarajan S. Ramesh	CSAC-0009	9820

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CRYOVAC, INC.
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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,337

Applicant(s)

RAMESH ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-16,18-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-16,18-23 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and remarks filed on 6/24/2003. Applicant's amendments to claims 1, 9, 12, 18 and 28, and cancellation of claims 8, 17 and 28 have all been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 13-14 and 29-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

More particularly, Claims 13-14 and 29-30 recites stretch oriented film, whereas the Specification lacks a teaching as to how to prevent the known wrinkle problem typically associated with the heat shrinkage of an oriented film by heat lamination (see cited Akao, US 4469741, column 1 line 66 to column 2, line 2).

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7, 9-16, 18-27 and 29-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the multiple "comprising" renders the claim vague, indefinite, and appears unduly broad, the Examiner suggests, at line 2, to change "a foam sheet comprising polyolefin" to --a polyolefin sheet--; at line 3, change "a first film comprising polyolefin" to --a first polyolefin film--; and at line 5, change "a second film comprising polyolefin" to --a second polyolefin film--, so as to clarify the claim language.

For claim 3, the Examiner suggests a re-write with proper Markush format.

For claims 12 and 21, line 2 of each claim, the phrase "comprises a ..." ahead of a Markush language ^{grouping} appears improper and inconsistent. As such, the Examiner suggests to change "comprises a compound" to --is--.

Response to Amendment

8. Claims 1-7, 9-12, 15-16 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akao (US 4469741) in view of Foster (US 5968630), substantially for the reasons set forth in section 3 of Paper No. 10, together with the following additional observations.

It is noted that newly amended claim 1 now recites in part "film comprising polyolefin heat laminated to".

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With respect to Applicant's Response arguing that "Akao requires the use of an adhesive layer between a foam layer and a film layer. Thus the invention of Akao as modified by Foster will never result in a product in which a film layer is heat-laminated to the foam" (Remarks, page 6, bottom paragraph), the Examiner repeats (see Paper No. 6, page 5, top paragraph) that the adhesive layers used to bond the film layers may be comprised of various adhesives such as low-density polyethylene adhesives, etc. (column 3, lines 1-9). Further, in Example 1, Akao expressly teaches that the laminate is formed by an adhesive layer composed of low density polyethylene (column 4, line 52). As such, the combined teachings of Akao and Foster clearly render the instantly claimed laminate obvious. With respect to the product-by-process recitation "heat-laminated to" in claim 1, the Examiner notes that the method limitation has not been shown on the record to produce a patentably distinct article, as such the formed articles are rendered *prima facie* obvious.

9. Claims 1-7, 9-16, 18-23 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (US 5968630) in view of Deibel et al. (US 6358599), substantially for the reasons set forth in section 4 of Paper No. 10, together with the additional observations as set forth above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~
1700

Daniel Zinker